THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 15557 of 2007

Date:13-09-2007

Between:

A.Someswara Rao **…Petitioner**

AND

The Collector & District Magistrate, East Godavari at Kakinada and two others

..

Respondents

ORDER:

The petitioner seeks a writ of mandamus to declare the action of the respondent No.1 in rejecting the appeal filed by the petitioner at the admission stage by proceeding Ref.No.lH3/4386/2004, dated 01.05.2007, as illegal and arbitrary.

It is stated that the petitioner as well as the third respondent have applied for the post of Extra Departmental Branch Post Master in Komarigiri village pursuant to the notification dated 11.01.1994 issued by the Postal Department and based on the solvency certificate produced by the third respondent, the third respondent was selected. It is the case of the petitioner that the said solvency certificate, dated 28.01.1994 issued by the Mandal Revenue Officer is not based on any record. Aggrieved by the said selection of the third respondent, the petitioner filed O.A.No.1356 of 1999 and the same was dismissed with liberty to produce the cancellation certificate obtained from the revenue authorities so as to enable the postal department to take appropriate action. To get the said solvency certificate cancelled, the petitioner filed an appeal before the Revenue Divisional Officer and the Revenue Divisional Officer by his order, dated 16.12.2003 in Ref.C/1898/2000 dismissed the appeal on merits stating that the petitioner failed to produce sufficient evidence to show that the property shown by the third respondent did not belong to him and therefore, the solvency certificate issued by the Mandal Revenue Officer in favour of the third respondent cannot be cancelled. Aggrieved by the said order, the petitioner filed further appeal before the District Collector, East Godavari at Kakinada. It is stated that the said appeal filed by the petitioner has been dismissed by the District Collector, Kakinda vide his proceedings Ref.H3/4386/2004, dated

01.05.2007 at the admission stage without assigning any reasons.

I am not inclined to express any opinion as to whether the appeal is maintainable or not. But, it may not be just and proper to dismiss the appeal filed by the petitioner without assigning any reasons. If the appeal is not maintainable, the District Collector ought to have stated that the second appeal is not maintainable.

Having regard to the facts of the case, the impugned order passed by the first respondent is set aside and the matter is remitted to the first respondent to consider and dispose of the said appeal filed by the petitioner after issuing notice to the petitioner in accordance with law.

With the above observations, the writ petition is disposed of. No costs.

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V.ESWARAIAH, J.

Date:13.09.2007
ccm